

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2159/2000

Thursday, this the 13th day of September, 2001

Hon'ble Shri Shanker Raju, Member (Jud1)

1. Raghu Nath S/o Shri Ram Nandan Poddar
I-272, Chidya Colony, I.A.R.I. Pusa,
New Delhi
2. Anil Kumar S/o Shri Anoop Lal
C/o 33/43 D.M.S. Colony, Hari Nagar,
Delhi
3. Arun Kumar S/o Shri Mangol Dev Paswan,
33/43, DMS Colony, Hari Nagar,
4. Ashok Kumar S/o Shri Anoop Lal,
33/43, DMS Colony, Hari Nagar,
Delhi-64
5. Arun Thakur S/o Shri Akalu Thakur,
I-44, Chidya Colony, IARI Pusa,
New Delhi
6. Banwari Lal S/o Shri Lal Mon
WZ-430/P, Naraina Gaon
New Delhi 28
7. Bhola Sah S/o Shri Singheshwar Sah
416 Type II Krishi Kunj, IARI
New Delhi-12
8. Charan Singh S/o Shri Rattan Singh
9. Daya Nand S/o Shri Ram Saran Sharma,
WZ-430/P, Naraina Gaon, Delhi-28
10. Dinesh Kumar Sah, S/o Shri Laxi Sah
11. Devender Chaudhry S/o Shri Rameshwar Chaudhry,
B-131, W.S.H. Colony
12. Dinesh Prasad S/o Shri Chattar Singh
25, Sindhi Colony, IARI, Pusa, New Delhi-12
13. Chanshyam S/o Shri ;;Naubat Singh
WZ-430 PC 72, Naraina Gaon, Delhi-28
14. Laddu Kamte S/o Shri Singheshwar Kamte
I-116 Chidya Colony
I.A.R.I. Pusa, New Delhi-12
15. Leela Dhar S/o Shri Rajinder Kumar
I-846, Loha Mandi, Delhi-28
16. Laxman Singh S/o Shri Jeet Ram
WZ 490, Naraina Gaon, Delhi-28
17. Laxman S/o Shri Mukand Singh
WZ-174, Naraina Gaon, Delhi-28

18. Manoj S/o Shri Ram Sajan Rai,
I-151, Chidya Colony, IARI Pusa, New Delhi-12

19. Mahesh Paswan S/o Shri Raghubir Paswan,
Krishi Kunj, IARI, Pusa, New Delhi-12

20. Mukesh Kumar S/o Phirangi Lal,
B-15, IARI Pusa, New Delhi 12

21. Man Mohan Singh S/o Gurdev Singh
1670, Krishi Kunj, IARI Pusa, New Delhi-12

22. Mahesh Kumar S/o Rajinder Ram
3/320, Mangolpuri, Delhi-83

23. Mahender Ram S/o Parmeshwar Ram
Sonia Gandhi Camp,
254, Naraina Vihar Phase I, Delhi-28

24. Nagender Li,ar S/o Shri Phirangi Lal,
B-15, IARI, Pusa, New Delhi-12

25. Naval Kishore Paswan S/o Shri Taitar Paswan,
I-248, Chidya Colony, IARI Pusa, New Delhi-12

26. Pappu Kumar S/o Pati Lal Chaudhry,
RZF Gali No.2JA, Sadh Nagar Palam Colony,
New Delhi-45

27. Prem Nath S/o Shri Ram Nandan Foddar,
I-272, Chidya Colony, IARI Pusa New Delhi-12

28. Ram Babu Ram S/o Shri Bhoginder Ram
I-135, Krishi Kunj, IARI Pusa, New Delhi-12

29. Ram Sagar Rai S/o Shri Pradeep Rai
372, Krishi Kunj, IARI Pusa, New Delhi-12

30. Ram Iqbal Rai S/o Shri Ram Udar Rai
I/86, Krishi Kunj, IARI Pusa, New Delhi-12

31. Ramesh Prashad Thakur S/o Ram Dev Thakur
855, Krishi Kunj, IARI Pusa, New Delhi-12

32. Ram Dinesh Rai S/o Shri Bhola Rai

33. Ravinder Kumar S/o Shri Ram Parkash
618, Krishi Kunj, IARI Pusa, New Delhi-12

34. Ram Bhajan Rai S/o Shri Chander Kishore Rai,
I/10, Krishi Kunj, Pusa, New Delhi-12

35. Rajinder Singh S/o Shri Ved Parkash,
184, Vishwas Park, Uttam Nagar, New Delhi-54

36. Shivalaya Kumar Chaudhry S/o Shri Ram Parshad
I-24, Chidya Colony, IARI Pusa, New Delhi-12

37. Sunil Singh S/o Shri Chander Sekhar Singh
B-8 Sector 5, Rohini, Delhi-85

38. Sunil Kumar, S/o Shri Kapil Dev
I-12, Krishi Kunj, IARI Pusa, New Delhi-12

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39. Sohan Lal S/o Nathu Ram,
W-C-69, IARI Pusa, New Delhi-12

40. Suresh Rai S/o Ram Surat Rai,
807, Block 54,
Krishi Kunj, IARI Pusa, New Delhi-12

41. Satinder Singh S/o Shri Mege Ram
WZ-430/P Naraina Gaon, Delhi 28

42. Nihal Singh S/o Chhattar Singh
WZ-561, Naraina Village, Delhi-28

43. Vinod Paswan S/o Shri Aklu Paswan,
Rattan Nursery, Shankar Road,
New Rajinder Nagar, New Delhi

..... Applicants
(By Advocate : Shri S.L. Hans)

Versus

1. Union of India
through Secretary, I.C.A.R.
Krishi Bhavan, New Delhi-1

2. Director (Admn)
I.A.R.I.
Pusa
New Delhi-12

..... Respondents
(By Advocate : Shri N.S. Dalal)

O R D E R (ORAL)

Heard the learned counsel for both the parties at length.

2. The applicants, 43 in number, have worked as daily paid labourers from different dates, though the details have not been incorporated in the OA by them, but as is apparent from the certificates, they had worked till 1992. The applicants seek a direction to the respondents to place their names at the bottom of seniority list meant for daily wagers and engage them as and when work is available. The learned counsel for the applicants has placed reliance on the decision of the Apex Court in the case of Civil Welfare Board & Ors. Vs. Anjali Bepari (Mrs.) & Ors., reported as 1996 SCC (L&S) 1358 in which it has been directed that as and when vacancy arises, the

persons, whose services have been dispensed with, would be taken back without insisting upon the requirement of sponsorship through Employment Exchange and be regularised on availability of post in accordance with the seniority. The learned counsel for the applicants has also stated by placing reliance on a decision of Shish Pal Singh Vs. Union of India through its Secretary, Ministry of Agriculture, Krishi Bhawan & Ors. (OA-311/95 with connected OAs) decided on 18.9.1995 that the law of limitation does not apply to casual labour and the respondents have been directed to consider the applicants therein for reengagement as casual labourers in preference over outsiders and freshers and also to consider them for regularisation and accord temporary status in view of the Scheme framed by the Govt. of India. The learned counsel for the applicants has further placed reliance on the decision of the Coordinate Bench of the Tribunal in OA-2756/99 decided on 10.4.2001 (Sohini Lal & 48 Ors. Vs. Union of India & Anr.), wherein in similar circumstances, directions were issued to consider the cases of the applicants for reengagement. The learned counsel stated that an advertisement was issued in 1993 calling all those daily wage paid workers to report for their reengagement. Though, the advertisement had been published in the news papers but as the applicants were stated to have been living in remote areas in different parts of the country, the same escaped their attention and subsequently when they came to know that similarly placed persons whose services have been dispensed with, had approached this Court. Drawing my attention to the letter dated 7.11.1994, it is stated that the respondents have themselves called for the

Information regarding the daily paid casual workers and also further placed reliance on letters dated 6.9.1995, 31.7.1996, 3.7.1997 and 20.5.1998 to contend that till 1998, the respondents have continued to engage the labourers on daily wages who have been discharged earlier. In this conspectus, it is stated that what is claimed in this OA is consideration for reengagement and for the same reason, the applicant legally entitled to.

3. The learned counsel for the respondents by strongly rebutting the contentions of the applicants has raised a preliminary objection as to the limitation involved in the present OA. From the contentions of Shri N.S. Dalal, learned counsel, it is stated that the decision cited by the learned counsel for the applicants are per incuriam of the decision of the Apex Court in the case of R.C. Samanta & Ors. Vs. Union of India, 1993 (3) SC 418, wherein the law of limitation has been applied to casual labourers also. Further placing reliance on the decision of the Full Bench in Mahabir Vs. Union of India & Ors. (OA-706/96 with connected cases), decided on 10.5.2000, it has been held that the law of limitation equally applies to casual workers, and if they have slept over their rights and had come to the court after un-explained delay, their claims are liable to be rejected. Further, it is stated that having published an advertisement in 1993 and circulated it in all the national news papers of both Hindi as well as English, a proper notice has been served on the applicants, but despite this, they had not turned up and as such those who have responded to the notice, have been included in the seniority list and

are accordingly reengaged and further considered for accord of regularisation. The learned counsel for the respondents has further stated that the decision cited by the learned counsel for the applicants is distinguishable as therein the petitioners, who had been continuously working on casual basis, had sought regularisation and in these circumstances, the Apex Court issued directions for consideration and as the applicants herein have not worked continuously and have worked for few days even in some cases 8 days and 2 days, their cases cannot be considered as per the directions of the Apex Court. Furthermore, the ratio cited by the learned counsel for the applicants, it is stated that the same has not at all been considered the fact of advertisement issued in the year 1993, which has been taken note of by the subsequent decision, wherein it has been held that once in absence of any response to the advertisement, the resort of the applicants after so many years for engagement is clearly barred by limitation. The learned counsel for the respondents has stated that in the rejoinder, the applicants have stated that they were not aware about the advertisement as they were living at very far off places, whereas from the perusal of the memo of parties, it transpires that the addresses given by the applicants pertain to Delhi which clearly shows that they were very much residing in Delhi and this contention is not factually correct. The learned counsel for the applicants has also filed rejoinder reiterating the contentions already taken in OA and further stated that in the decision of the Coordinate Bench of this Tribunal in Sohini Lal case (supra), the fact of 1993 advertisement has been taken

into consideration but despite this, the directions have been issued to regularise the applicants. (X)

4. Having considered the rival contentions of both the learned counsel for the parties and having regard to the decisions cited on both sides, I am of the affirmed view that the applicants have no legal right for reengagement. The applicants admittedly had worked right from 1975 to 1992 with the respondents as daily paid workers varying from 2 days to 160 days in each case and and in pursuance of an advertisement issued in the year 1993, which has admittedly been published in all the national news papers both in Hindi and English, the applicants have not responded and reported to the respondents as, according to them, they were living in remote areas and they were not aware of the same. The respondents by complying with the directions of the Apex Court have prepared a seniority list and included the names of those persons who have responded to this. In compliance of the seniority list, the resort of the applicants to contend that as they had been living in remote areas and were not aware of the advertisement, is not legally tenable as had it been so, the applicants would not have known about the engagement of persons while resorting to this OA. Apart from it, the addresses given by the applicants do indicate their residences at Delhi. Furthermore, the resort of the applicants to the decision of the coordinate Bench of this Court in Sohini Lal case (supra), wherein the fact of advertisement was taken note of by the Court is concerned, it is found on perusal of the order that having mentioned about the advertisement, there is no further

✓ discussion on the same, whereas in the decision cited by the respondents in OA-2390/00, there had been a discussion and a finding to the effect that having published in the news papers in 1993, the applicants have not reported to the respondents and having failed to do so, their resort to claim reengagement at this belated stage would be of no avail to them. As far as the ratio in Shish Pal Singh's case (supra) is concerned, the case pertains to casual labourers of Railways where there is a circular/letter of 1987 and according to which the incumbents have a right to have their names entered in the live casual labour register and in that conspectus, the cause of action has been observed to be continuous which is not there in ICAR and as such, the ratio is distinguishable. As regards the limitation is concerned, I am fortified by the decision of the Full Bench where the law of limitation has been applied to casual labourers also. As provided under Section 21 of Administrative Tribunals Act, 1985, the cause of action arises to a daily paid wager or even to casual labour from the date his services have been disengaged and having disengaged about 10 years or more in the past, the applicants' resort to file this OA for reengagement is hopelessly barred by limitation. In this view of mine, I am fortified by the ratio of Apex Court in S.S.Rathore Vs. State of Madhya Pradesh, reported as SLJ 1991 (1) SC 98.

5. The contention of the learned counsel for the applicants that in a DB's decision of this Court the directions issued to the respondents to consider the claim of the applicants reengagement is concerned, I find that the same is per incuriam to the decision of the Apex Court

(9)

in the case of R.C. Samanta's case (supra) and goes contrary to the decision of the Full Bench in Mahabir's case~~~ (supra in which the D.B. has also not discussed the advertisement issued in 1993 as is apparent from the reading of the order. As such the same would not be a binding precedent on me. As regards the resort of the applicants to the decision of the Apex Court in Anjali Bepari's case (supra) is concerned, I feel that the same has no universal application and cannot be applied to the facts and circumstances of the case because in that case after having worked continuously as casual labour for five years, the services of the applicant were dispensed with and as such directions had been issued to consider her claim. Whereas in the instant case, after having disengaged the applicants, they failed to report to the respondents despite the advertisement of 1993, thereby depriving them the right to be included in the seniority list, hence they cannot claim reengagement and in this view of the matter, the ratio would have no application.

6. As regards the contention of the learned counsel for the applicants that the respondents have continued to call the daily paid labour by issuing letters upto 1998 is concerned, in my considered view, these letters have been issued in pursuance of directions of this Court in the case of Raj Kamal Vs. Union of India, therein they have taken note of the seniority of daily paid labourer and only those persons whose names stand in the seniority list, have been called for. As such the applicants who have not been included in the seniority have

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no legal right to be considered for reengagement as it is
done strictly as per the seniority list. (20)

7. Having regard to the aforesated facts and circumstances of this case as also the judgements cited by the learned counsel for the respondents, I am inclined to dismiss this OA.

8. Before parting this OA, my attention has been drawn by the learned counsel for the applicants to the letters written by few of the applicants requesting therein for incorporation of their names in the seniority list. In view of this, the respondents are directed to verify the facts and in case it is found correct, they may include the names of such applicants in the seniority list and consider them for reengagement.

9. The OA is dismissed as above. No costs.

S. Raju
(Shanker Raju)
Member (J).

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